

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DR. JAY BERGER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE NO.
)	1:13-CV-3251-RWS
DORN M. LAWRENCE,)	
)	
Defendant.)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S
FIRST, SECOND AND THIRD MOTIONS IN LIMINE**

COMES NOW Defendant Lawrence, by and through his undersigned counsel, and files Defendant’s Response to Plaintiff’s First, Second and Third Motions in Limine. While Defendant does not oppose Plaintiff’s requests to exclude evidence listed in Numbers 2, 3, 4 (Awards and Commendations), 4 (Litigation Lottery), 5, 7, 9, 11, 12 and 13. Defendant responds to the remainder of Plaintiff’s Motions in Limine as follows:

(1 And 10) Evidence Relating to the Testimony of Officer Michael Banja, Training Academy, as Expert testimony.

Plaintiff seeks to exclude expert testimony from Officer Michael Banja; however, Officer Banja was deposed by Plaintiff as the APD Training Facility Representative. Plaintiff specifically requested a deponent which could describe

general training techniques, use of force policies and take-down techniques on behalf of the City of Atlanta Police Department. Officer Banja was also questioned on specific training provided to Defendant Officer Lawrence. Defendant expects Officer Banja to be allowed to testify along these very lines.

(6) **Evidence Relating to the Testimony Concerning the Financial Condition of Defendant and his ability to pay a Judgment.**

Defendant is not sure what argument Plaintiff is making here. On one hand Plaintiff is stating that the defendant should not be allowed to mention indemnification but on the other hand, Plaintiff is implying that the City of Atlanta should admit that it will pay the judgment on behalf of the Officer because it has historically done so. Defendant is sued in his individual capacity. The City of Atlanta is not a party to this case. For Plaintiff to imply that the City, somehow, has a **responsibility** to pay a judgment is outrageous. Plaintiff has properly quoted the code referencing indemnification; specifically; ...the City..."in its sole discretion, by resolution duly adopted and approved...may pay all or any part of final judgments..." Defendant Officer Lawrence should have the same rights as any other individual defendant along these lines.

(8) **Characterization of the Doll House As a Strip Club**

Plaintiff was a customer at the Doll House establishment on the night of this incident. Plaintiff and his date visited the establishment and had alcoholic beverages, which is believed to have contributed to Plaintiff's combative attitude. The Doll House is undeniably a strip club. The jury has a right to have the entire picture which explains the setting upon which this encounter took place. Defendant does not oppose the additional voir dire questions.

(14) **Evidence Relating to Summary of Medicals**

This Motion in Limine is inappropriate. This request is more of an evidentiary issue that should be addressed as such. Plaintiff will need to prove his damages and provide support for the medical evidence as required under the law.

Respectfully submitted this 4th day of January, 2016.

/s/ LaShawn W. Terry
Robert N. Godfrey
Chief Counsel
Georgia Bar No. 298550
Tamara N. Baines
Sr. Assistant City Attorney
Georgia Bar No. 032460
LaShawn W. Terry
Sr. Assistant City Attorney
Georgia Bar No. 702578

Attorneys for Defendant

City of Atlanta Law Department
55 Trinity Avenue, S.W.
Suite 5000
Atlanta, Georgia 30303
404-546-4178
404-546-9535 [facsimile]
lterry@atlantaga.gov

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CERTIFICATE OF SERVICE

I hereby certify that on January 4th, 2016, I electronically filed the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S FIRST, SECOND AND THIRD MOTIONS IN LIMINE** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to all counsel of record.

/s/LaShawn W. Terry
LASHAWN W. TERRY
Sr. Assistant City Attorney
Georgia Bar No. 702578

Attorney for Defendant

City of Atlanta Law Department
55 Trinity Avenue, S.W.
Suite 5000
Atlanta, Georgia 30303
404-546-4178
404-546-9535 [facsimile]
lterry@atlantaga.gov